

## **REMARKS**

In response to the Restriction Requirement mailed June 14, 2007, Applicant provisionally elects group I, which includes claims 1-39. Applicant also provisionally elects Species 5 within group I, which includes claims drawn to a tariff model that defines a fractional pulse as depicted by paragraphs 34-39 of the Specification. This species includes claims 1 and 10-16 directed to a method and claims 21 and 30-36 directed to a system.

Applicant also traverses the requirement for restriction between Group I and Group II because the invention claimed by Group I (claims 1-39) and Group II (claims 40 and 41) are not patentably distinct. Claim 1 is an independent claim directed to a method for providing metering from a gateway in a packet network. Claim 21 is an independent claim directed to a corresponding system. Claims 40 and 41 are directed to a similar method and system, respectively. The difference between method claims 1 and 40 and system claims 21 and 41 is merely the perspective from which the invention is claimed. Claims 1 and 21 are claimed from the perspective of the gateway in the claimed invention; the gateway receives a message comprising a complete call tariff model for controlling all metering in association with a call, and the gateway provides pulses to a metering entity during the call according to the call tariff model. Claims 40 and 41 are directed to the same message comprising a complete call tariff model for controlling all metering in association with a call; claims 40 and 41 just claim generating the message and sending it to the gateway instead of the step of receiving it. But the claims share a novel feature, namely the message comprising a complete call tariff model for controlling all metering in association with a call. In view of the foregoing, Applicant respectfully requests reconsideration of the restriction requirement between Groups I and II.

Applicant also traverses the requirement for election between the alleged seven species of Group I. Applicant disagrees that there are seven patentably distinct species in Group I. For example, Species 2 and 3 are both directed to a tariff model that defines a one-time charge, whether the one-time charge is a set-up charge, or an add-on charge. At the very least, claim 4 is generic to claims 5-7 (and corresponding system claim 24 is generic to claims 25-27). Accordingly, should claims 4 and 24 be allowable, then claims 5-7 and 25-27 would be allowable as well.

Applicant also disagrees with the position of the Patent Office that there is an examination and search burden for the species due to their mutually exclusive characteristics.

For example, Species 2 and 3 do not have mutually exclusive characteristics. In fact, these Species actually have a common characteristic, a one-time charge. Thus, any search for a one-time charge may identify prior art that would be relevant to Species 2 and 3. Likewise, Species 4, drawn to a tariff model that defines different pulse windows reads on claims 8 and 9 (and corresponding system claims 28 and 29). These claims recite that the different pulse windows define the number of pulses for the one-time charge. Thus, the claims of Species 4 also have the common characteristic of a one-time charge. Accordingly, a search for Species 2 and/or 3 may also identify prior art that would be relevant to Species 4.

Applicant also requests further clarification of Species 6 and 7 as identified by the Examiner. Both Species 6 and 7 as identified by the Examiner are drawn to a tariff model that defines charge intervals and a phase that is not evenly divisible by the charge intervals by providing a number of pulses to approximate a tariff pulse rate. Applicant is not sure why the Examiner is alleging Species 6 and 7 are patentably distinct.

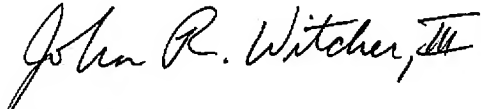
Based on the foregoing, Applicant respectfully requests reconsideration of the restriction requirement between Groups I and II, as well as the requirement for election among the identified species of Group I.

Applicant notes that claim 1 is acknowledged by the Examiner to be generic. Applicant submits that the corresponding system claim 21 is also generic. Upon the allowance of claims 1 and 21, Applicant reserves the right to seek claims to additional species which depend from or otherwise require all the limitations of the allowable generic claims as provided by 37 CFR § 1.141.

Applicant also reserves the right to file a divisional application directed to the non-elected claims at a later time during the pendency of the present application.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

John R. Witcher, III

Registration No. 39,877

100 Regency Forest Drive, Suite 160

Cary, NC 27518

Telephone: (919) 238-2300

Date: July 16, 2007

Attorney Docket: 7000-296